

THE
ONTARIO WEEKLY REPORTER

(TO AND INCLUDING DECEMBER 10TH, 1904.)

VOL. IV. TORONTO, DECEMBER 15, 1904. No. 16

CARTWRIGHT, MASTER.

DECEMBER 5TH, 1904.

CHAMBERS.

GOODWIN v. GRAVES.

Libel—Pleading — Privilege — Justification — Denial of Innuendo—Motion to Strike out Defences.

Motion by plaintiff to strike out paragraphs 2, 3, 4, 5, and 6 of the statement of defence.

The action was for libel. The alleged libel was a petition to a municipal council for the removal of plaintiff from the office of poundkeeper for alleged misconduct.

Paragraph 2 of the defence denied the innuendo; paragraph 3 was in justification; paragraph 4 alleged that plaintiff improperly impounded the animals of one Reid from malicious motives, and impounded no animals other than those of Reid; paragraph 5 stated that the matters set forth in the preceding paragraphs became and were matters of public notoriety and discussion and interest before and at the dates referred to; paragraph 6, that defendant acted in good faith and without malice and in the public interest, and that the publication was privileged.

I. F. Hellmuth, K.C., for plaintiff.

S. B. Woods, for defendant.

THE MASTER.—From the statement of claim itself it appears that the present is a case of qualified privilege; see *Willcocks v. Howell*, 5 O. R. 360.

Having regard to *Dryden v. Smith*, 17 P. R. 505 . . . I see nothing in the statement of defence with which I can properly interfere.

Paragraph 2 denies the innuendo, which defendant is surely entitled to do; whether he can succeed is another matter.